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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

ERIN GURSSLIN,

Plaintiff,

Civil Action No. 20-cv-6508

v.

THE CITY OF ROCHESTER, a municipal entity, POLICE  
OFFICER JEREMY NELLIST, POLICE OFFICER JOSHUA  
KELLY, COMMANDER FABIAN RIVERA, LIEUTENANT AARON  
SPRINGER,

Defendants.

Video-recorded Deposition Upon Oral Examination of:

Officer Jeremy Nellist

Location: Alliance Court Reporting, Inc.  
109 South Union Street, Suite 400  
Rochester, New York 14607

Date: February 24, 2023

Time: 10:00 a.m.

Reported By: KIMBERLY A. BONSIGNORE  
Alliance Court Reporting, Inc.  
109 South Union Street, Suite 400  
Rochester, New York 14607



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A P P E A R A N C E S

Appearing Remotely on Behalf of Plaintiff:

Elliot D. Shields, Esq.  
Roth & Roth LLP  
192 Lexington Avenue, Suite 802  
New York, New York 10016  
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Appearing on Behalf of Defendant:

Peachie L. Jones, Esq.  
City of Rochester Law Department  
City Hall, Room 400A  
30 Church Street  
Rochester, New York 14614  
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Also Present:

Peter H. Colucci, Videographer  
Alliance Court Reporting, Inc.  
109 South Union Street, Suite 400  
Rochester, New York 14607

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1 S T I P U L A T I O N S

2 FRIDAY, FEBRUARY 24, 2023;

3 (Proceedings in the above-titled matter  
4 commencing at 10:13 a.m.)

5 \* \* \*

6 IT IS HEREBY STIPULATED by and between the  
7 attorneys for the respective parties that this  
8 deposition may be taken by the Plaintiff at this time  
9 pursuant to notice;

10 IT IS FURTHER STIPULATED, that all  
11 objections except as to the form of the questions and  
12 responsiveness of the answers, be reserved until the  
13 time of the trial;

14 IT IS FURTHER STIPULATED, that pursuant to  
15 Federal Rules of Civil Procedure 30(e)(1) the witness  
16 requests to review the transcript and make any  
17 corrections to same before any Notary Public;

18 IT IS FURTHER STIPULATED, that if the  
19 original deposition has not been duly signed by the  
20 witness and returned to the attorney taking the  
21 deposition by the time of trial or any hearing in this  
22 cause, a certified transcript of the deposition may be  
23 used as though it were the original;

24 IT IS FURTHER STIPULATED, that the  
25 attorneys for the parties are individually responsible



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1 P R O C E E D I N G S

2 for their certified transcript charge, including any  
3 expedite or other related production charges in  
4 accordance with Rochester Rules;

5 AND IT IS FURTHER STIPULATED, that the  
6 Notary Public, KIMBERLY A. BONSIGNORE, may administer  
7 the oath to the witness.

8 \* \* \*

10:13:01 9 THE VIDEOGRAPHER: Good morning. We are  
10:13:28 10 on the record at 10:13 a.m. Today is Friday, February  
10:13:34 11 24, 2023.

10:13:36 12 My name is Peter Colucci of Alliance Court  
10:13:39 13 Reporting, located at 109 South Union Street, Suite  
10:13:43 14 400, in Rochester, New York. We are at the offices of  
10:13:46 15 Alliance Court Reporting.

10:13:46 16 We are about to begin the video-recorded  
10:13:49 17 deposition of Jeremy Nellist in the matter of Erin  
10:13:53 18 Gursslin versus the City of Rochester et al.

10:13:56 19 Would the attorneys please announce their  
10:14:01 20 appearances for the record?

10:14:02 21 MR. SHIELDS: For the Plaintiff Erin  
10:14:05 22 Gursslin, Elliot Shields, Roth & Roth LLP.

10:14:07 23 MS. JONES: And Peachie Jones for -- with  
10:14:10 24 the City of Rochester, for all defendants.

10:14:13 25 THE VIDEOGRAPHER: The court reporter



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

12:07:15 2 Q. Okay. When's the first time that you  
12:07:19 3 noticed Ms. Gursslin?

12:07:22 4 A. After we shot the dog.

12:07:26 5 Q. Okay. If Ms. Gursslin testified that she  
12:07:33 6 was following the dog and talking to it right up to  
12:07:39 7 the time when you shot the dog, and that she was  
12:07:41 8 standing about 3 feet behind the dog when you shot it,  
12:07:45 9 do you think she was mistaken?

12:07:46 10 MS. JONES: Objection.

12:07:47 11 A. Yes.

12:07:48 12 Q. Okay. If she was 3 feet behind the dog,  
12:07:53 13 do you think you would have noticed her?

12:07:55 14 MS. JONES: Objection.

12:07:56 15 A. Yes.

12:07:56 16 Q. Okay. And you testified that it was dark  
12:07:58 17 outside?

12:08:00 18 A. It was dark, yes.

12:08:01 19 Q. And you testified that you didn't see any  
12:08:03 20 light come on?

12:08:05 21 MS. JONES: Objection.

12:08:05 22 A. Correct.

12:08:06 23 Q. And you testified that you didn't see any  
12:08:09 24 poop on the ground because it was dark outside?

12:08:11 25 MS. JONES: Objection.



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

12:08:12 2 A. Correct.

12:08:13 3 Q. And you testified -- well, let me withdraw  
12:08:16 4 that.

12:08:17 5 So you jump the fence, and you see the dog  
12:08:23 6 running at you, and then you shoot the dog. Is that  
12:08:26 7 what happened?

12:08:27 8 A. No.

12:08:27 9 MS. JONES: Objection.

12:08:28 10 Q. Okay. So what happened?

12:08:30 11 A. So Josh jumped over the fence first. He  
12:08:34 12 was in the yard, I passed him all the gear, and then I  
12:08:39 13 jumped over the fence. And then we picked up our gear  
12:08:43 14 and began to walk out.

12:08:45 15 And as we got to the point of the yard,  
12:08:49 16 that's when the dog charged at us. So we were in the  
12:08:53 17 yard briefly before the dog ever came at us.

12:08:58 18 Q. Okay. So how long were you in the yard  
12:09:01 19 before you noticed the dog?

12:09:03 20 A. About 30 seconds.

12:09:06 21 Q. Okay. And in that 30 seconds, you never  
12:09:09 22 noticed the light come on?

12:09:10 23 A. No.

12:09:11 24 Q. And in that 30 seconds, you never heard  
12:09:14 25 Ms. Gursslin talking to Nina?



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

12:09:15 2 MS. JONES: Objection.

12:09:16 3 A. No.

12:09:17 4 Q. Okay. Where was Nina located in the yard  
12:09:21 5 when you first noticed her?

12:09:22 6 A. She was about 4 to 5 feet from us, running  
12:09:30 7 directly at us.

12:09:31 8 Q. Okay. So in that 4 to 5 feet, you were  
12:09:36 9 able to pull out your gun and shoot?

12:09:38 10 A. No.

12:09:39 11 Q. Okay. So what happened?

12:09:41 12 A. So initially the dog charged at Josh, who  
12:09:45 13 was in front of me because we were in a single-file  
12:09:48 14 line. Josh used his rifle bag and put it in front of  
12:09:56 15 him as a barrier between him and the dog.

12:09:57 16 The dog could not get through the rifle  
12:10:02 17 bag. Josh actually used it, from what I could see, as  
12:10:05 18 a shield, moving it around to -- as a barrier between  
12:10:09 19 him and the dog.

12:10:11 20 The dog then went around to our right and  
12:10:17 21 came in through some shrubbery that we were up against  
12:10:23 22 that was between us and the dog.

12:10:27 23 Q. I mean, what were you doing when Josh had  
12:10:31 24 the bag and was using it as a shield?

12:10:37 25 A. I was actually just -- I don't remember



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12:10:43 2 exactly what I did because it happened so fast. I

12:10:46 3 think I kind of grabbed my bag too. I had gear in my

12:10:49 4 hand.

12:10:51 5 Q. Okay. And what did you -- what did you

12:10:54 6 do?

12:10:55 7 MS. JONES: Objection.

12:10:57 8 A. I just kind of stood there.

12:10:59 9 Q. Okay. Did you see Ms. Gursslin while you

12:11:03 10 were standing there?

12:11:05 11 A. No.

12:11:05 12 Q. Okay. Did you hear Ms. Gursslin while you

12:11:07 13 were standing there?

12:11:08 14 MS. JONES: Objection.

12:11:09 15 A. No.

12:11:09 16 Q. Then what happened next?

12:11:12 17 A. The dog left where Josh was, came in at a

12:11:18 18 different location. I saw Josh draw his handgun, and

12:11:25 19 I drew mine at the same time. And he shot first, and

12:11:28 20 then I shot roughly a quarter of a second behind him,

12:11:33 21 as the dog was coming at us through the shrubbery.

12:11:38 22 And then I started identifying ourselves as police

12:11:41 23 officers.

12:11:41 24 Q. Okay. Why did you start identifying

12:11:45 25 yourselves as police officers?



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

12:11:47 2 A. So that if there was anyone else in the  
12:11:51 3 yard, they knew police was back there.

12:11:52 4 Q. Okay. So did you start identifying  
12:11:56 5 yourself after you saw Ms. Gursslin?

12:11:57 6 MS. JONES: Objection.

12:11:58 7 A. I started identifying ourselves after the  
12:12:02 8 shots were fired.

12:12:03 9 Q. Okay. And you saw Ms. Gursslin  
12:12:05 10 immediately after the shots were fired?

12:12:06 11 A. Yes.

12:12:07 12 Q. Okay. Where was Ms. Gursslin?

12:12:10 13 A. Coming through the yard.

12:12:12 14 Q. Okay. She was close to you?

12:12:15 15 MS. JONES: Objection.

12:12:15 16 A. She was approaching us, yes.

12:12:18 17 Q. She was behind that little white picket  
12:12:22 18 fence that divided the backyard?

12:12:24 19 MS. JONES: Objection.

12:12:25 20 A. I don't remember exactly where she was.

12:12:27 21 Q. Okay. She wasn't, like, by the side door;  
12:12:30 22 right?

12:12:30 23 MS. JONES: Objection.

12:12:31 24 A. I don't recall exactly where she was, no.

12:12:33 25 Q. Okay. Did you have any idea where the dog



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12:37:20 2 that you want to change after having the opportunity  
12:37:23 3 to speak with your attorney?

12:37:24 4 A. No.

12:37:25 5 Q. Okay. Were there any answers that you  
12:37:28 6 want to clarify after speaking with your attorney?

12:37:31 7 A. No.

12:37:33 8 MR. SHIELDS: So I'm just going to take a  
12:37:34 9 step back. There's a couple pictures I want to show  
12:37:38 10 you and just ask you some quick questions about.

12:37:41 11 So the first one we will mark as Exhibit 6  
12:37:46 12 for this deposition. Let me put it up.

12:37:46 13 (The following exhibit was marked for  
12:37:46 14 identification: Number EXH 6.)

12:38:00 15 Q. Okay. And, Officer Nellist, do you see  
12:38:06 16 the picture that's depicted on the screen right now?

12:38:09 17 A. Yes.

12:38:09 18 Q. Okay. Would this be a picture from where  
12:38:11 19 you set up the final operating position on the night  
12:38:14 20 of the incident?

12:38:15 21 A. I don't know if it exactly looked like  
12:38:18 22 that, but that's in the area that we were.

12:38:20 23 Q. Okay. So aside from the snow on the  
12:38:24 24 ground and maybe some objects in the area, that's  
12:38:28 25 generally where you had set up on the night of the



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12:38:31 2 incident; is that right?

12:38:32 3 MS. JONES: Objection.

12:38:32 4 A. Yes.

12:38:34 5 MR. SHIELDS: Okay. And I'm just going to  
12:38:39 6 go right to another picture that we'll mark as Exhibit  
12:38:42 7 7.

12:38:47 8 Hold on. I'm just going to -- okay.

12:38:52 9 So Exhibit 7 is looking from the other way  
12:38:55 10 towards that back corner.

12:38:55 11 (The following exhibit was marked for  
12:38:55 12 identification: Number EXH 7.)

12:38:59 13 Q. Does this generally depict the area where  
12:39:02 14 your final operating position was set up also?

12:39:05 15 A. Yes.

12:39:05 16 MS. JONES: Objection.

12:39:07 17 Q. And that would have been -- I don't know.  
12:39:11 18 Can you see -- it looks like a trash barrel at the  
12:39:13 19 corner. Would you have been around on the opposite  
12:39:18 20 side? Between the back of the structure and the  
12:39:21 21 fence, is that where you were located?

12:39:23 22 A. Yes.

12:39:25 23 Q. All right.

12:39:27 24 MS. JONES: Elliot, if we're going to have  
12:39:31 25 more questions on this picture, can you zoom in a



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12:39:35 2 little more. Thank you.

12:39:37 3 MR. SHIELDS: That was going to be the end  
12:39:40 4 of my questions about it.

12:39:41 5 Q. But, I guess, you guys were just kind of  
12:39:44 6 around the corner in this picture, maybe behind where  
12:39:47 7 the tires were; is that right?

12:39:49 8 MS. JONES: Objection.

12:39:50 9 A. Yes.

12:39:51 10 MR. SHIELDS: Okay. I'm going to pull  
12:39:55 11 those down for now.

12:39:58 12 Okay. And then I have a couple questions  
12:40:01 13 about your interrogatory responses. So I want to mark  
12:40:06 14 the interrogatory responses as Exhibit 8, and I'll put  
12:40:14 15 those up.

12:40:14 16 (The following exhibit was marked for  
12:40:14 17 identification: Number EXH 8.)

12:40:27 18 Q. Okay. And, Officer Nellist, do you see on  
12:40:29 19 your screen what we've marked as Exhibit 8, a document  
12:40:33 20 entitled "Defendant Jeremy Nellist's Responses to  
12:40:40 21 Plaintiff's First Set of Interrogatories"?

12:40:42 22 A. Yes.

12:40:42 23 Q. I want to fast-forward down here to number  
12:40:51 24 6, which says "Describe every instance where you have  
12:40:56 25 discharged a firearm during the line of duty,



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

12:40:58 2 including the date, the intended target, a person  
12:41:01 3 versus a dog or something else, your assignment at the  
12:41:04 4 time, the weapon discharged, whether the discharge was  
12:41:08 5 found to have been justified and/or whether the  
12:41:11 6 discharge was found to have violated any department  
12:41:15 7 policy."

12:41:15 8 So the response first asserted some legal  
12:41:19 9 objections, and then said "Without waiving the  
12:41:24 10 objections, defendant states that, aside from the  
12:41:27 11 incident at issue in this suit, he has discharged his  
12:41:30 12 firearm in the line of duty four times; three at  
12:41:36 13 aggressive dogs, and one time at a person during a  
12:41:37 14 SWAT operation. All firearm discharges were found to  
12:41:40 15 have been justified and consistent with department  
12:41:42 16 policy."

12:41:43 17 So my first question is, you've described  
12:41:49 18 one other incident in about 2000 -- you said between  
12:41:54 19 2008 and 2013 it occurred, where you discharged your  
12:41:59 20 firearm at a dog. Were there any other times, aside  
12:42:03 21 from that incident, where you discharged your firearm  
12:42:07 22 at a dog?

12:42:07 23 A. Yes.

12:42:07 24 Q. Okay. When was the next time?

12:42:10 25 A. I don't remember the exact date. It was



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12:42:13 2 after the first one. I believe -- I can't remember  
12:42:20 3 which one was first, but I'll just go into one of  
12:42:24 4 them.

12:42:25 5 I got a -- I was working midnights and I  
12:42:29 6 got a call for two aggressive dogs killing each other  
12:42:34 7 inside of a house.

12:42:36 8 Q. Okay. Was that before or after there were  
12:42:41 9 body cameras?

12:42:41 10 MS. JONES: Objection.

12:42:42 11 A. Before body cameras.

12:42:44 12 Q. Okay. So would that have been -- so I've  
12:42:52 13 got all the -- most of the body -- or most of the  
12:42:56 14 incident reports for dog shootings from 2013 to  
12:43:00 15 present, and I don't think I saw an incident report  
12:43:02 16 for that incident.

12:43:04 17 A. It was --

12:43:04 18 Q. Would that -- so my question is, do you  
12:43:07 19 know if that incident occurred before 2013?

12:43:11 20 A. I believe it did, yes.

12:43:12 21 Q. Okay. And do you think the other incident  
12:43:15 22 occurred before 2013 also that you described earlier  
12:43:19 23 before the break?

12:43:20 24 MS. JONES: Objection.

12:43:20 25 A. Yes.



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

12:43:21 2 Q. Okay. And then this indicates -- your  
12:43:27 3 interrogatory response number 6 indicates that there's  
12:43:29 4 a third incident as well; is that right?

12:43:31 5 A. Yes.

12:43:33 6 Q. Okay. Did that incident also occur before  
12:43:36 7 2013?

12:43:36 8 A. Yes.

12:43:37 9 MS. JONES: Objection.

12:43:38 10 Q. Okay. So between 2008 and 2013, you had  
12:43:43 11 three incidents where you shot dogs?

12:43:47 12 MS. JONES: Objection.

12:43:47 13 A. Yes.

12:43:47 14 Q. And then since 2013, have you had any  
12:43:51 15 other incidents where you shot dogs, other than  
12:43:54 16 Ms. Gursslin's dog?

12:43:56 17 A. No.

12:43:56 18 Q. Okay. Can you describe the third incident  
12:43:59 19 that occurred between 2008 and 2013?

12:44:04 20 A. You're talking the one other than the 911  
12:44:10 21 call?

12:44:10 22 Q. Correct. So you first described the 911  
12:44:13 23 call with the dog in the cage, and then you said the  
12:44:15 24 two dogs in the basement attacking each other. And  
12:44:18 25 then there was a third one; correct?



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

01:08:32 2 A. Yes.

01:08:34 3 Q. Okay. Can you describe that?

01:08:38 4 A. Well, it's basically taking a deep breath,  
01:08:43 5 not losing your composure, and we train that in  
01:08:47 6 training, where they put you in stressful locations.  
01:08:50 7 And that's part of the selection process, in order to  
01:08:53 8 make the team, is how you handle -- how you perform  
01:08:56 9 under stress.

01:09:00 10 Q. So it's an important part of being part of  
01:09:06 11 the SWAT team; correct?

01:09:07 12 A. Yes.

01:09:09 13 Q. So you guys are basically supposed to be  
01:09:12 14 the cream of the crop from the RPD; right?

01:09:14 15 MS. JONES: Objection.

01:09:15 16 A. Yes.

01:09:16 17 Q. And did any of those stressful situations  
01:09:25 18 ever involve interactions with dogs?

01:09:27 19 A. No.

01:09:32 20 Q. Okay. And then before there was a third  
01:09:47 21 thing that you had discussed about training with dogs,  
01:09:51 22 and I think you said it was securing the dogs?

01:09:53 23 A. Yes.

01:09:54 24 Q. Okay. And that's different from the catch  
01:09:57 25 pole training?



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1 OFFICER JEREMY NELLIST - BY MR. SHIELDS

01:09:59 2 A. Yes.

01:10:00 3 Q. Okay. Can you tell me everything about  
01:10:03 4 the training regarding securing dogs?

01:10:05 5 A. Yes. So securing of dogs would be placing  
01:10:10 6 them in an area that has already been cleared for  
01:10:13 7 people. If we are unable to secure them outside to a  
01:10:20 8 leash, we'll secure them in small spaces, like  
01:10:25 9 bathrooms, in order for the search team, or whoever we  
01:10:31 10 are serving the warrant for, to be able to come in and  
01:10:35 11 search the location.

01:10:37 12 We will secure the dog, as best as we can,  
01:10:41 13 in an area that they can't get out of, either locking  
01:10:45 14 them in a room that the search team isn't going to  
01:10:49 15 have to go in and search for anything, a/k/a -- like  
01:10:49 16 an empty bedroom with nothing in it, we'll secure a  
01:10:55 17 dog in that. A bathroom. Or we -- if there's a place  
01:10:58 18 to secure it outside, like a leash or a doghouse,  
01:11:03 19 we'll take it outside and tie it up.

01:11:05 20 Q. Did you ever get any training about how to  
01:11:11 21 avoid shooting a dog that's running at you that you  
01:11:15 22 deem to be aggressive?

01:11:16 23 A. No.

01:11:19 24 Q. And I think I asked this before, but I  
01:11:30 25 don't remember the answer. At the academy, did you



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01:11:33 2 learn anything about interacting with dogs?

01:11:36 3 A. Actually, yeah, I thought of one thing, if  
01:11:39 4 we go back to the previous question.

01:11:41 5 Q. Okay.

01:11:42 6 A. If you have time and space before the dog  
01:11:48 7 is on you, you can either use OC spray, which I have  
01:11:54 8 deployed on a dog before and found to be not  
01:11:58 9 effective, or you can use your baton and use it as a  
01:12:02 10 shield, if you have time and reaction space to do so.

01:12:07 11 Q. Okay. Have you only used your pepper  
01:12:13 12 spray on the one prior occasion that you described  
01:12:17 13 earlier?

01:12:18 14 A. Yes.

01:12:18 15 Q. Okay. You've never used it on any other  
01:12:18 16 occasions against a dog?

01:12:22 17 A. Correct.

01:12:22 18 MS. JONES: Objection.

01:12:23 19 Q. Have you ever used your baton during an  
01:12:26 20 interaction with a dog?

01:12:26 21 A. I have not used my baton, but I have used  
01:12:31 22 other means as a way to block myself from a dog.

01:12:37 23 Q. Okay. What other means have you used?

01:12:40 24 A. On the entry team -- I was on a  
01:12:46 25 break-and-rake team, where we were assigned to break



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01:12:50 2 out a window as a distractionary technique for the  
01:12:55 3 entry team to make entry. And as we were breaking the  
01:12:59 4 window, the dog attempted to come out the window at  
01:13:03 5 us, and I used the break-and-rake tool to push the dog  
01:13:11 6 back into the house.

01:13:14 7 Q. What did you call the tool?

01:13:19 8 Break-and-rake?

01:13:19 9 A. Break-and-rake.

01:13:21 10 Q. Break-and-rake. Okay.

01:13:25 11 So that's a specific tool to, like, break  
01:13:28 12 a window?

01:13:29 13 A. Yes.

01:13:29 14 Q. Okay. And so that was effective to avoid  
01:13:31 15 having to shoot the dog?

01:13:33 16 A. Yes.

01:13:33 17 Q. Okay. Anything else?

01:13:39 18 A. No.

01:13:40 19 Q. Okay. Have you ever had a situation where  
01:13:44 20 you, like, ran away from a dog and jumped over a  
01:13:47 21 fence?

01:13:48 22 MS. JONES: Objection.

01:13:48 23 A. As a child, I ran away from the neighbor's  
01:13:54 24 dog, and I made it about 15 feet before he bit my calf  
01:13:58 25 and tore it open. So I have run away from a dog.



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01:14:02 2 Q. Okay. So when you were a kid, you were  
01:14:07 3 attacked by a neighbor's dog?

01:14:08 4 A. Yes.

01:14:08 5 Q. Okay. Did that leave a lasting fear of  
01:14:11 6 dogs with you?

01:14:12 7 A. No.

01:14:13 8 MS. JONES: Objection.

01:14:16 9 Q. Do you own any dogs yourself?

01:14:18 10 A. Yes.

01:14:18 11 Q. Okay. Is that the dog that you identified  
01:14:34 12 in your interrogatory response as Siren?

01:14:36 13 A. The dog that I personally own?

01:14:40 14 Q. Is this yours? It says -- yeah, that was  
01:14:44 15 my question. In your interrogatory response, number  
01:14:48 16 16, you said that you own an English springer spaniel  
01:14:55 17 named Siren?

01:14:56 18 A. Yes, I do.

01:14:58 19 Q. So that's your current dog?

01:15:00 20 A. Yes.

01:15:01 21 Q. So prior to that, you had another springer  
01:15:04 22 spaniel named Dixie?

01:15:06 23 MS. JONES: Objection.

01:15:06 24 A. Yes.

01:15:07 25 Q. And I'm not familiar with an English



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01:15:12 2 Springer. Is that a small dog or a big dog?

01:15:17 3 A. Medium-sized dog.

01:15:21 4 Q. Okay. In your experience, as a dog owner,  
01:15:24 5 do dogs normally greet people if they enter onto your  
01:15:31 6 property?

01:15:31 7 MS. JONES: Objection.

01:15:31 8 A. My dog does, yes.

01:15:33 9 Q. It would run up to somebody if they came  
01:15:35 10 into your yard?

01:15:36 11 MS. JONES: Objection.

01:15:37 12 A. Yes.

01:15:40 13 Q. And that could be scary for some people;  
01:15:44 14 right?

01:15:45 15 MS. JONES: Objection.

01:15:46 16 A. Depending on the demeanor, yes.

01:15:50 17 Q. Did any of your dogs ever attack anybody  
01:15:55 18 when they entered onto your property?

01:15:57 19 A. No.

01:15:59 20 Q. But it's a normal thing that a dog would  
01:16:04 21 do, to run up to somebody that goes into the -- their  
01:16:07 22 yard?

01:16:07 23 MS. JONES: Objection.

01:16:08 24 A. Yes.

01:16:08 25 Q. Did you ever receive any training since



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01:16:13 2 you started with the RPD for how to deal with dogs  
01:16:16 3 that run up to you when you're on their property?

01:16:19 4 MS. JONES: Objection.

01:16:20 5 A. We were taught on how to identify an  
01:16:25 6 aggressive dog from a nonaggressive dog.

01:16:28 7 Q. Okay. How do you identify a dog as  
01:16:33 8 aggressive versus nonaggressive if it's running at you  
01:16:36 9 when you enter onto its property?

01:16:39 10 A. Usually an aggressive dog would either be  
01:16:44 11 growling or snarling at you, how fast that it's  
01:16:49 12 running -- actually running at you. A playful dog or  
01:16:53 13 a nonaggressive dog would be barking [sic] its tail,  
01:16:58 14 kind of trotting or slowly running towards you.

01:17:00 15 Q. Did you ever watch any live dogs running  
01:17:07 16 to identify whether it's aggressive or nonaggressive?

01:17:09 17 MS. JONES: Objection.

01:17:10 18 A. Any training videos or --

01:17:14 19 Q. I'm talking about live dogs. Like real  
01:17:18 20 dogs.

01:17:18 21 MS. JONES: Objection.

01:17:19 22 A. I mean, I have experience with it.

01:17:22 23 Q. Sure. But in any training that you've  
01:17:25 24 received since you started with the RPD, did you ever  
01:17:27 25 do any trainings with real live dogs in person, where



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01:17:33 2 the focus of the training was identifying whether or  
01:17:36 3 not the dog was aggressive?

01:17:38 4 A. I used to be a decoy for our K-9 program,  
01:17:45 5 where I would go out and put on a decoy suit and let  
01:17:49 6 the dogs -- I actually went to a decoy school. So my  
01:17:54 7 personal interactions with our own K-9s.

01:17:59 8 Q. Okay. So tell me about that. So that's  
01:18:03 9 to train the RPD's police dogs?

01:18:07 10 A. Yes.

01:18:10 11 MS. JONES: Objection.

01:18:11 12 Q. Okay. And so that's your -- when did you  
01:18:15 13 do that decoy training?

01:18:17 14 A. About four or five years ago.

01:18:22 15 Q. Okay. Was it before or after this  
01:18:25 16 incident in 2018?

01:18:27 17 A. I don't recall.

01:18:29 18 Q. Okay. Was the purpose of that training to  
01:18:36 19 just train the dog or was that also to train you and  
01:18:40 20 other officers on identifying whether the dog was  
01:18:44 21 aggressive or nonaggressive?

01:18:46 22 MS. JONES: Objection.

01:18:46 23 A. The school was for the decoy handler on  
01:18:54 24 how to properly decoy for a dog because, if you decoy  
01:18:58 25 not properly, you can injure the dog, and it was also



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01:19:05 2 for training purposes.

01:19:06 3 There was a guy that came up that was  
01:19:08 4 working with the dog, so it was kind of like a  
01:19:11 5 two-tier thing. It was for the dogs and it was also  
01:19:14 6 for the decoys.

01:19:15 7 Q. Okay. What is the role of a decoy?  
01:19:18 8 That's a term I'm unfamiliar with.

01:19:19 9 A. To be able to catch the dog properly.

01:19:22 10 Q. Okay. So to catch the RPD K-9 dog?

01:19:26 11 A. Correct.

01:19:27 12 Q. And that's in the field, like if you go  
01:19:31 13 out to some 911 call where it's determined that you  
01:19:36 14 need to bring the K-9?

01:19:38 15 A. No. I went to the school strictly for  
01:19:43 16 training purposes and I thought it would also help my  
01:19:46 17 package because at the time one of my aspirations was  
01:19:50 18 to be a K-9 officer.

01:19:52 19 Q. So you went to that training because you  
01:19:55 20 wanted to be a K-9 officer?

01:19:58 21 MS. JONES: Objection.

01:20:00 22 A. Yes, and I liked working with the dogs.

01:20:04 23 Q. But you never became a K-9 officer; is  
01:20:07 24 that right?

01:20:07 25 MS. JONES: Objection.



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01:20:07 2 A. I've put in three separate times, but have  
01:20:08 3 not had enough seniority in order to get the position.

01:20:11 4 Q. So it's something that might happen in the  
01:20:13 5 future still?

01:20:14 6 A. Correct.

01:20:15 7 Q. Okay. You've mentioned videos. Have you  
01:20:34 8 ever watched any videos that specifically discussed --  
01:20:41 9 any training videos that specifically discuss how to  
01:20:41 10 identify whether a dog that's running at you is  
01:20:47 11 aggressive or nonaggressive?

01:20:49 12 A. No.

01:20:50 13 Q. Okay. In any of the trainings, was there  
01:20:58 14 ever a discussion about how to identify dogs that are  
01:21:02 15 running at you as aggressive or nonaggressive?

01:21:05 16 A. Yes.

01:21:06 17 Q. Okay. Tell me everything you remember  
01:21:09 18 about that.

01:21:10 19 MS. JONES: Objection.

01:21:13 20 A. The demeanor of the dog. The way its body  
01:21:18 21 language is. The speed that it's running at you. Is  
01:21:24 22 it growling or snarling as it runs at you. The  
01:21:29 23 position of its tail, and -- generally the speed at  
01:21:34 24 which it's coming at you, and its demeanor and the  
01:21:39 25 noises that it's making.



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01:21:41 2 Q. Okay. Are any of those factors that  
01:21:44 3 you've just listed more important than the other ones?

01:21:48 4 A. I think it all goes in -- they all play  
01:21:52 5 into each other on identifying an aggressive dog  
01:21:54 6 versus a nonaggressive dog.

01:21:56 7 Q. And is that training that you're referring  
01:22:05 8 to right now the 2014 PowerPoint that you said that  
01:22:11 9 you reviewed in preparation for the deposition today?

01:22:14 10 A. Yes.

01:22:15 11 Q. Okay. And what else do you remember from  
01:22:19 12 that training?

01:22:20 13 A. They also do know how to identify a  
01:22:30 14 nonaggressive dog or a dog that is just being  
01:22:32 15 defenseful.

01:22:34 16 Q. Okay. And is that just based on, like,  
01:22:35 17 the dog's body postures or something else?

01:22:39 18 MS. JONES: Objection.

01:22:39 19 A. Yes, dog's body posture.

01:22:42 20 Q. Okay. If a dog was standing in an  
01:22:48 21 aggressive posture approximately 10 feet away from  
01:22:52 22 you, but it wasn't charging at you, would you be  
01:22:55 23 justified in shooting that dog?

01:22:58 24 A. No.

01:22:59 25 Q. And you say "no" based on your training



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01:23:09 2 and experience?

01:23:09 3 A. Yes.

01:23:09 4 Q. That would be against RPD policy?

01:23:12 5 A. Yes.

01:23:13 6 Q. Okay. Would that be -- well, you're not a  
01:23:16 7 sergeant; is that right?

01:23:17 8 A. Correct.

01:23:18 9 Q. Okay. So you would have never had the  
01:23:21 10 situation where you would be in a position to say that  
01:23:27 11 somebody that did that should be disciplined?

01:23:29 12 MS. JONES: Objection.

01:23:30 13 A. Yeah, I'm not in -- I'm not a supervisor.

01:23:35 14 Q. Okay. Other than that 2014 training and  
01:23:45 15 the PowerPoint, what other non-SWAT trainings have you  
01:23:52 16 gotten about interacting with dogs?

01:23:55 17 A. Just general, on the road, dealing with  
01:24:02 18 dogs.

01:24:04 19 Q. Okay. So that's not, like, a specific  
01:24:06 20 training that you're required to get from the RPD,  
01:24:09 21 though; right?

01:24:10 22 MS. JONES: Objection.

01:24:11 23 A. Correct.

01:24:12 24 Q. That's just your experience as an officer?

01:24:15 25 MS. JONES: Objection.



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01:24:15 2 A. Yes.

01:24:16 3 Q. Okay. Are there any other instances where  
01:24:37 4 you've used less-lethal force against a dog that we  
01:24:41 5 haven't talked about?

01:24:41 6 A. No.

01:24:49 7 Q. Based on your experience, what percentage  
01:25:02 8 of residential properties in Rochester have dogs?

01:25:06 9 A. I don't know.

01:25:09 10 Q. When's the last time that you responded to  
01:25:12 11 a property and there was a dog there?

01:25:14 12 A. I don't know because I am in the Tactical  
01:25:25 13 Unit. A couple weeks ago we assisted our Narcotics  
01:25:30 14 Unit with a search warrant, and there was dogs inside  
01:25:35 15 the location.

01:25:35 16 Q. Okay. How about before that?

01:25:39 17 A. I don't recall.

01:25:39 18 Q. What do you do as a member of the Tact  
01:25:45 19 Unit? What's your general daily job duties?

01:25:49 20 A. We provide support to our Homicide Unit,  
01:25:55 21 our Narcotics Unit. We go after high-profile  
01:26:02 22 suspects, a/k/a shooting suspects, wanted people. We  
01:26:06 23 generally don't do 911 calls.

01:26:09 24 Q. Okay. So you're not responding to  
01:26:16 25 somebody requesting help generally?



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01:26:18 2 A. Correct.

01:26:19 3 MS. JONES: Objection.

01:26:20 4 Q. Okay. Since you joined the RPD, have you  
01:26:30 5 ever heard of an RPD officer being disciplined for  
01:26:35 6 shooting a dog?

01:26:35 7 MS. JONES: Objection.

01:26:36 8 A. No.

01:26:37 9 Q. Since you joined the RPD, have you ever  
01:26:41 10 heard of an RPD officer being required to get  
01:26:44 11 additional training because they shot a dog?

01:26:48 12 MS. JONES: Objection.

01:26:52 13 A. No.

01:26:53 14 Q. Okay. Since you joined the RPD, have you  
01:26:55 15 ever heard of anyone being disciplined for entering  
01:26:59 16 the curtilage to a residential property?

01:27:02 17 MS. JONES: Objection.

01:27:03 18 A. No.

01:27:03 19 Q. Have you ever heard of anybody being  
01:27:05 20 disciplined for entering -- for trespassing on the  
01:27:10 21 home -- in, like, the actual home?

01:27:12 22 MS. JONES: Objection.

01:27:12 23 A. No.

01:27:15 24 Q. Okay. And have you ever heard of anybody  
01:27:19 25 being required to receive additional training about



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01:27:23 2 the legal requirements for entering the curtilage to a  
01:27:26 3 property?

01:27:27 4 A. No.

01:27:27 5 Q. What has the department done to try to  
01:27:36 6 reduce the number of dogs that are shot?

01:27:38 7 A. They put out that in-service training with  
01:27:46 8 the PowerPoint.

01:27:48 9 Q. Has that in-service training with the  
01:27:51 10 PowerPoint only been given that one time?

01:27:55 11 A. I believe it was sent out a few years  
01:27:58 12 after that as like -- kind of like over -- like a roll  
01:28:02 13 call training, just as an email refresher.

01:28:05 14 Q. So that would have been in -- well,  
01:28:07 15 withdrawn.

01:28:07 16 Roll call trainings happen at the  
01:28:11 17 beginning of the shift and they're, like, five or ten  
01:28:14 18 minutes long; is that right?

01:28:15 19 MS. JONES: Objection.

01:28:16 20 A. Yes.

01:28:16 21 Q. And do you have time to go through the  
01:28:20 22 whole PowerPoint during a roll call training?

01:28:24 23 A. If it's a slow night, yes.

01:28:28 24 Q. Okay. So that would be you, and the other  
01:28:31 25 officers that also start at the beginning of the same



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01:28:35 2 shift, and a supervisor that would review the

01:28:38 3 PowerPoint?

01:28:39 4 A. Yes.

01:28:39 5 MS. JONES: Objection.

01:28:41 6 Q. Do you remember actually doing that?

01:28:44 7 A. No.

01:28:46 8 Q. Okay. To your knowledge, what is the

01:28:54 9 review process when a dog is shot?

01:28:56 10 A. What do you mean, "the review process"?

01:29:01 11 Q. For example, the sergeant or the  
01:29:05 12 supervisor writes the incident report; correct?

01:29:09 13 MS. JONES: Objection.

01:29:09 14 A. Yes.

01:29:10 15 Q. Okay. And as part of that process, the  
01:29:15 16 supervisor would speak with the officer that  
01:29:18 17 discharged the firearm?

01:29:19 18 A. Correct.

01:29:20 19 Q. Okay. And you discharged your firearm  
01:29:29 20 four times at dogs; right?

01:29:30 21 A. Yes.

01:29:31 22 Q. So in those four instances, other than  
01:29:35 23 speaking with the supervisor that filled out the  
01:29:37 24 incident report, did you do anything else as part of  
01:29:40 25 the review of the firearm discharge?



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01:29:42 2 MS. JONES: Objection.

01:29:43 3 A. No.

01:29:46 4 Q. Okay. So, for example, like nobody from  
01:29:49 5 PSS ever came and interviewed you about the discharge?

01:29:54 6 MS. JONES: Objection.

01:29:54 7 A. Correct.

01:29:54 8 Q. Okay. And you said before that you never  
01:29:59 9 were disciplined by the RPD as part of that -- any of  
01:30:04 10 those four firearm discharges?

01:30:08 11 MS. JONES: Objection.

01:30:09 12 A. Correct.

01:30:10 13 Q. And if it was a disciplinary process, that  
01:30:12 14 would be conducted through PSS; is that right?

01:30:15 15 MS. JONES: Objection.

01:30:15 16 A. Yes.

01:30:16 17 Q. Okay. Do you have any idea if the  
01:30:23 18 Professional Development Section reviews firearm  
01:30:31 19 discharge incidents, like dog shootings?

01:30:35 20 A. I don't know.

01:30:36 21 Q. Okay. Do you know if the review process  
01:30:43 22 for a dog shooting is scrutinized as closely as when  
01:30:47 23 force is used against a person?

01:30:51 24 MS. JONES: Objection.

01:30:51 25 A. I don't know.



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01:30:54 2 Q. Have you ever been disciplined for using  
01:30:58 3 force against the person?

01:30:59 4 A. No.

01:31:00 5 Q. Have you ever been a defendant in a  
01:31:06 6 lawsuit other than this lawsuit?

01:31:09 7 A. No.

01:31:12 8 Q. Does the RPD require officers to use  
01:31:20 9 de-escalation techniques in situations with aggressive  
01:31:26 10 people?

01:31:26 11 A. Yes.

01:31:26 12 Q. Does the RPD require officers to use  
01:31:29 13 similar de-escalation techniques in situations with  
01:31:34 14 aggressive dogs?

01:31:37 15 A. If there is time to react to a dog, then  
01:31:43 16 you use some of the techniques that I've already  
01:31:48 17 discussed. The baton, maybe pepper spray, if there's  
01:31:54 18 time.

01:31:54 19 Q. Did you ever learn how to use, for  
01:31:57 20 example, body language with a dog that you perceive as  
01:32:03 21 aggressive to de-escalate with the dog?

01:32:10 22 A. Yes. I've learned, like, speak loudly at  
01:32:15 23 the dog, tell him to stay. That's about it.

01:32:21 24 Q. Okay. And when did you learn those  
01:32:26 25 techniques?



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